

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Judiciary, to which was referred Senate Bill No. 365, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 3, between lines 40 and 41, begin a new paragraph and insert:
- 2 "SECTION 3. IC 29-3-7-7 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
- 4 UPON PASSAGE]: **Sec. 7. A court may not appoint a person to**
- 5 **serve as the guardian or permit a person to continue to serve as a**
- 6 **guardian if the person:**
- 7 **(1) is a sexually violent predator (as described in**
- 8 **IC 35-38-1-7.5);**
- 9 **(2) was at least eighteen (18) years of age at the time of the**
- 10 **offense and was convicted of child molesting (IC 35-42-4-3) or**
- 11 **sexual misconduct with a minor (IC 35-42-4-9) against a child**
- 12 **less than sixteen (16) years of age:**
- 13 **(A) by using or threatening the use of deadly force;**
- 14 **(B) while armed with a deadly weapon; or**
- 15 **(C) that resulted in serious bodily injury; or**
- 16 **(3) was less than eighteen (18) years of age at the time of the**
- 17 **offense and was convicted as an adult of:**
- 18 **(A) an offense described in:**
- 19 **(i) IC 35-42-4-1;**
- 20 **(ii) IC 35-42-4-2;**
- 21 **(iii) IC 35-42-4-3 as a Class A or Class B felony;**

- 1 (iv) IC 35-42-4-5(a)(1);
- 2 (v) IC 35-42-4-5(a)(2);
- 3 (vi) IC 35-42-4-5(a)(3);
- 4 (vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony;
- 5 (viii) IC 35-42-4-5(b)(2); or
- 6 (ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony;
- 7 **(B) an attempt or conspiracy to commit a crime listed in**
- 8 **clause (A); or**
- 9 **(C) a crime under the laws of another jurisdiction,**
- 10 **including a military court, that is substantially equivalent**
- 11 **to any of the offenses listed in clauses (A) and (B)."**

12 Page 4, between lines 12 and 13, begin a new paragraph and insert:
 13 "SECTION 5. IC 31-9-2-107 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 107. (a) "Relative", for
 15 purposes of IC 31-19-18, means:

- 16 (1) an adoptive or whole blood related parent;
- 17 (2) a sibling; or
- 18 (3) a child.

19 **(b) "Relative", for purposes of IC 31-34-3, means:**

- 20 **(1) a maternal or paternal grandparent;**
- 21 **(2) an adult aunt or uncle; or**
- 22 **(3) any adult relative suggested by the parent of a child."**

23 Page 4, between lines 25 and 26, begin a new paragraph and insert:
 24 "SECTION 8. IC 31-19-2-6 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. A petition for
 26 adoption must specify the following:

- 27 (1) The:
 - 28 (A) name if known;
 - 29 (B) sex, race, and age if known, or if unknown, the
 - 30 approximate age; and
 - 31 (C) place of birth;
 - 32 of the child sought to be adopted.
- 33 (2) The new name to be given the child if a change of name is
- 34 desired.
- 35 (3) Whether or not the child possesses real or personal property
- 36 and, if so, the value and full description of the property.
- 37 (4) The:
 - 38 (A) name, age, and place of residence of a petitioner for

- 1 adoption; and
 2 (B) if married, place and date of their marriage.
 3 (5) The name and place of residence, if known to the petitioner
 4 for adoption, of:
 5 (A) the parent or parents of the child;
 6 (B) if the child is an orphan:
 7 (i) the guardian; or
 8 (ii) the nearest kin of the child if the child does not have a
 9 guardian;
 10 (C) the court or agency of which the child is a ward if the child
 11 is a ward; or
 12 (D) the agency sponsoring the adoption if there is a sponsor.
 13 (6) The time, if any, during which the child lived in the home of
 14 the petitioner for adoption.
 15 (7) Whether the petitioner for adoption has been convicted of:
 16 (A) a felony; or
 17 (B) a misdemeanor relating to the health and safety of
 18 children;
 19 and, if so, the date and description of the conviction.
 20 (8) Additional information consistent with the purpose and
 21 provisions of this article that is considered relevant to the
 22 proceedings. ~~including whether:~~
 23 ~~(A) a petitioner for adoption is seeking aid; and~~
 24 ~~(B) the willingness of the petitioner for adoption to proceed~~
 25 ~~with the adoption is conditioned on obtaining aid.~~
 26 SECTION 9. IC 31-19-2-12, AS AMENDED BY P.L.146-2006,
 27 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2009]: Sec. 12. As soon as a petition for adoption is found to
 29 be in proper form, the clerk of the court shall forward one (1) copy of
 30 the petition for adoption to:
 31 (1) a licensed child placing agency as described in IC 31-19-7-1,
 32 with preference to be given to the agency, if any, sponsoring the
 33 adoption, as shown by the petition for adoption; and
 34 (2) the county office of family and children whenever a subsidy
 35 is requested in a petition for adoption sponsored by a licensed
 36 child placing agency. **department."**
 37 Page 4, line 33, after "agency" insert **"for a child who has not been**
 38 **adjudicated to be a child in need of services,".**

1 Page 4, line 33, after "or" insert ", if".

2 Page 4, line 33, after "the" insert "**child is the subject of an open**
3 **child in need of services action,**".

4 Page 4, line 34, after "children" insert "**the**".

5 Page 4, line 34, strike "approved for that purpose by" and insert
6 "**of**".

7 Page 4, between lines 34 and 35, begin a new paragraph and insert:

8 "SECTION 11. IC 31-19-8-3, AS AMENDED BY P.L.145-2006,
9 SECTION 249, IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The department shall
11 annually compile a list of

12 ~~(1) licensed child placing agencies and~~

13 ~~(2) county offices of family and children;~~

14 that conduct the inspection and supervision required for adoption of a
15 child by IC 31-19-7-1 and section 1 of this chapter.

16 (b) The list of licensed child placing agencies ~~and county offices of~~
17 ~~family and children~~ must include a description of the following:

18 (1) Fees charged by each agency. ~~and county office of family and~~
19 ~~children;~~

20 (2) Geographic area served by each agency. ~~and county office of~~
21 ~~family and children;~~

22 (3) Approximate waiting period for the inspection or supervision
23 by each **licensed child placing** agency. ~~and county office of~~
24 ~~family and children;~~

25 (4) Other relevant information regarding the inspection and
26 supervision provided by ~~an~~ **a licensed child placing** agency ~~or a~~
27 ~~county office of family and children~~ under IC 31-19-7-1 and
28 section 1 of this chapter.

29 (c) The department shall do the following:

30 (1) Maintain in its office ~~or on its website~~ **sufficient** copies of the
31 list compiled under this section for distribution to individuals who
32 request a copy.

33 (2) Provide the following persons with sufficient copies of the list
34 prepared under this section for distribution to individuals who
35 request a copy:

36 (A) Each clerk of a court having probate jurisdiction in a
37 county.

38 (B) Each ~~county office of family and children;~~ **local office.**

1 ~~(3) Provide a copy of the list to each public library organized~~
 2 ~~under IC 36-12.~~

3 (d) The department ~~and each:~~

4 ~~(1) county office of family and children;~~

5 ~~(2) clerk of a court having probate jurisdiction in a county; and~~

6 ~~(3) public library organized under IC 36-12;~~

7 shall make the list compiled under this section available for public
 8 inspection.

9 SECTION 12. IC 31-19-8-4, AS AMENDED BY P.L.145-2006,
 10 SECTION 250, IS AMENDED TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2009]: Sec. 4. To facilitate adoption
 12 proceedings, the department shall:

13 **(1) publish;**

14 **(2) post on its web site; or**

15 **(3) furnish to clerks of Indiana courts having probate jurisdiction;**
 16 a list of approved supervising agencies.".

17 Page 4, line 39, after "agency, each" strike "agency or".

18 Page 4, line 40, delete "local office" and insert **"licensed child**
 19 **placing agency for a child who is not adjudicated to be a child in**
 20 **need of services, or, if the child is the subject of an open child in**
 21 **need of services action, each local office of the department,".**

22 Page 5, line 1, strike "agency's or".

23 Page 5, line 1, delete "local".

24 Page 5, line 2, delete "office's".

25 Page 5, line 5, after "child" delete ":".

26 Page 5, line 6, strike "(1)".

27 Page 5, line 8, after "supervision" insert ".".

28 Page 5, line 8, strike "under section 2(c) of".

29 Page 5, strike line 9.

30 Page 5, line 10, strike "(2) may require the".

31 Page 5, line 10, delete "local".

32 Page 5, line 11, delete "office".

33 Page 5, line 11, strike "or a child placing agency to:".

34 Page 5, strike lines 12 through 13.

35 Page 5, line 15, delete "local office" and insert **"licensed child**
 36 **placing agency for a child who is not adjudicated to be a child in**
 37 **need of services, or, if the child is the subject of an open child in**
 38 **need of services action, each local office of the department,".**

- 1 Page 5, line 16, strike "or a child placing agency".
- 2 Page 5, line 17, strike "conduct" and insert "**ensure**".
- 3 Page 5, line 17, after "check" insert "**is conducted**".
- 4 Page 5, line 21, strike "agency's or".
- 5 Page 5, line 22, delete "local office's".
- 6 Page 5, line 26, delete "place:" and insert "place, **as defined by the**
- 7 **department.**".
- 8 Page 5, strike lines 27 through 30.
- 9 Page 5, line 33, after "of the" insert "**adoptive**".
- 10 Page 5, line 41, strike "agency's".
- 11 Page 5, line 42, strike "or".
- 12 Page 5, line 42, delete "local office's".
- 13 Page 6, line 7, after "of the" insert "**licensed child placing**".
- 14 Page 6, line 8, after "local office" insert "**of the department**".
- 15 Page 6, between lines 9 and 10, begin a new paragraph and insert:
- 16 "SECTION 16. IC 31-19-11-3, AS AMENDED BY P.L.146-2008,
- 17 SECTION 561, IS AMENDED TO READ AS FOLLOWS
- 18 [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) If the petition for adoption
- 19 contained a request for financial assistance, the court shall refer the
- 20 ~~petition~~ **petitioner** to the department **to complete and submit to the**
- 21 **department the Indiana Adoption Program application** for a
- 22 determination of eligibility for:
- 23 (1) adoption assistance under 42 U.S.C. 673, including applicable
- 24 federal and state regulations; or
- 25 (2) an adoption subsidy under IC 31-19-26.5.
- 26 (b) The department shall determine the eligibility of the adoptive
- 27 child for financial assistance and the amount of assistance, if any, that
- 28 will be provided.
- 29 (c) The court may not order payment of:
- 30 (1) adoption assistance under 42 U.S.C. 673; or
- 31 (2) any adoption subsidy under IC 31-19-26.5."
- 32 Page 7, line 31, strike "three (3)" and insert "**twelve (12)**".
- 33 Page 8, between lines 11 and 12, begin a new paragraph and insert:
- 34 "SECTION 17. IC 31-25-2-8, AS ADDED BY P.L.145-2006,
- 35 SECTION 271, IS AMENDED TO READ AS FOLLOWS
- 36 [EFFECTIVE JULY 1, 2009]: Sec. 8. **(a)** The department is the single
- 37 state agency responsible for administering the following:
- 38 (1) Title IV-B of the federal Social Security Act under 42 U.S.C.

- 1 620 et seq.
- 2 (2) Title IV-E of the federal Social Security Act under 42 U.S.C.
- 3 670 et seq.
- 4 (3) The federal Child Abuse Prevention and Treatment Act under
- 5 42 U.S.C. 5106 et seq.
- 6 (4) The federal Social Services Block Grant under 42 U.S.C. 1397
- 7 et seq.
- 8 (5) Any other federal program that provides funds to states for
- 9 services related to the prevention of child abuse and neglect, child
- 10 welfare services, foster care, independent living, or adoption
- 11 services.

12 **(b) This subsection applies beginning October 1, 2009. Pursuant**
 13 **to 42 U.S.C. 671(a)(32), the department shall negotiate in good**
 14 **faith with any Indian tribe, tribal organization, or tribal**
 15 **consortium in the state that requests to develop an agreement with**
 16 **the state to administer all or part of Title IV-E of the federal Social**
 17 **Security Act under 42 U.S.C. 670 et seq., on behalf of Indian**
 18 **children who are under the authority of the tribe, tribal**
 19 **organization, or tribal consortium."**

20 Page 16, between lines 31 and 32, begin a new paragraph and insert:

21 SECTION 31. IC 31-27-2-4, AS ADDED BY P.L.145-2006,
 22 SECTION 273, IS AMENDED TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The department shall adopt
 24 rules under IC 4-22-2, **including emergency rules under**
 25 **IC 4-22-2-37.1**, concerning the licensing and inspection of child caring
 26 institutions, foster family homes, group homes, and child placing
 27 agencies after consultation with the following:

- 28 (1) State department of health.
- 29 (2) Fire prevention and building safety commission.
- 30 (b) The rules adopted under subsection (a) shall be applied by the
- 31 department and state fire marshal in the licensing and inspection of
- 32 applicants for a license and licensees under this article.
- 33 (c) The rules adopted under IC 4-22-2 must establish minimum
- 34 standards for the care and treatment of children in a secure private
- 35 facility.
- 36 (d) The rules described in subsection (c) must include standards
- 37 governing the following:

- 38 (1) Admission criteria.

- (2) General physical and environmental conditions.
- (3) Services and programs to be provided to confined children.
- (4) Procedures for ongoing monitoring and discharge planning.
- (5) Procedures for the care and control of confined persons that are necessary to ensure the health, safety, and treatment of confined children.

(e) The department shall license a facility as a private secure facility if the facility:

- (1) meets the minimum standards required under subsection (c);
- (2) provides a continuum of care and services; and
- (3) is:

- (A) licensed under IC 12-25, IC 16-21-2, or IC 31-27-3; or
- (B) a unit of a facility licensed under IC 12-25 or IC 16-21-2; regardless of the facility's duration of or previous licensure as a child caring institution.

(f) A waiver of the rules may not be granted for treatment and reporting requirements."

Page 19, between lines 8 and 9, begin a new paragraph and insert:
 "SECTION 27. IC 31-30-1-2.5, AS ADDED BY P.L.173-2006, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. A juvenile court may not appoint a person to serve as the guardian or custodian of a child **or permit a person to continue to serve as a guardian or custodian of a child** if the person: is:

- (1) ~~is~~ a sexually violent predator (as described in IC 35-38-1-7.5);
- ~~or~~

- (2) ~~a person who~~ was at least eighteen (18) years of age at the time of the offense and ~~who~~ committed child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:

- (A) by using or threatening the use of deadly force;
- (B) while armed with a deadly weapon; or
- (C) that resulted in serious bodily injury; **or**

(3) was less than eighteen (18) years of age at the time of the offense but was tried and convicted as an adult of:

(A) an offense described in:

- (i) IC 35-42-4-1;
- (ii) IC 35-42-4-2;

- 1 (iii) IC 35-42-4-3 as a Class A or Class B felony;
- 2 (iv) IC 35-42-4-5(a)(1);
- 3 (v) IC 35-42-4-5(a)(2);
- 4 (vi) IC 35-42-4-5(a)(3);
- 5 (vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony;
- 6 (viii) IC 35-42-4-5(b)(2); or
- 7 (ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony;
- 8 (B) an attempt or conspiracy to commit a crime listed in
- 9 clause (A); or
- 10 (C) a crime under the laws of another jurisdiction,
- 11 including a military court, that is substantially equivalent
- 12 to any of the offenses listed in clauses (A) and (B)."

13 Page 22, line 11, delete "who is" and insert "**who:**

- 14 (1) has been convicted of:
- 15 (A) neglect of a dependent under IC 35-46-1-4; or
- 16 (B) a battery offense under IC 35-42-4; or
- 17 (2) is".

18 Page 22, line 12, delete "IC 11-8-8, the" and insert "**IC 11-8-8;**

19 **the**".

20 Page 27, between lines 38 and 39, begin a new paragraph and insert:

21 "SECTION 49. IC 31-34-3-4.5 IS ADDED TO THE INDIANA

22 CODE AS A NEW SECTION TO READ AS FOLLOWS

23 [EFFECTIVE JULY 1, 2009]: **Sec. 4.5. (a) This section applies**

24 **beginning October 1, 2009.**

25 (b) If a child is removed from the child's parents under this

26 chapter, within thirty (30) days after the removal of a child from

27 the parents the department shall exercise due diligence to identify

28 and provide notice of the removal to all adult relatives of the child,

29 including relatives suggested by the parent's relative under 42

30 U.S.C. 671 (a)(32).

31 (c) Notice under subsection (b) shall not be provided to a

32 relative who is suspected of causing family or domestic violence.

33 (d) A notice under subsection (b) shall:

- 34 (1) state that the child has been removed from the parents by
- 35 the department;
- 36 (2) set forth the options the relative may have under federal,
- 37 state, or local laws, including the care and placement of the
- 38 child and other options that may be lost if the relative fails to

1 **respond to the notice;**

2 **(3) describe the requirements for the relative to become a**
 3 **foster parent; and**

4 **(4) describe additional services available to the child placed in**
 5 **foster care.".**

6 Page 30, delete lines 26 through 42.

7 Page 31, delete lines 1 through 42.

8 Page 32, delete lines 1 through 22, begin a new paragraph and
 9 insert:

10 "SECTION 51. IC 31-34-12-5 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. **(a)** Evidence that a
 12 prior or subsequent act or omission by a parent, guardian, or custodian
 13 injured a child is admissible in proceedings alleging that a child is a
 14 child in need of services to show the following:

15 (1) Intent, guilty knowledge, the absence of mistake or accident,
 16 identification, the existence of a common scheme or plan, or other
 17 similar purposes.

18 (2) A likelihood that the act or omission of the parent, guardian,
 19 or custodian is responsible for the child's current injury or
 20 condition.

21 **(b) For purposes of an investigation by the department, if:**

22 **(1) a parent, guardian, or custodian had care, custody, and**
 23 **control of the child immediately before the child died;**

24 **(2) a law enforcement officer or an employee of the**
 25 **department requested the parent, guardian, or custodian to**
 26 **submit to a drug or alcohol screen test not later than three (3)**
 27 **hours after the death of the child;**

28 **(3) the parent, guardian, or custodian did not submit to a drug**
 29 **or alcohol screen test within three (3) hours of the law**
 30 **enforcement officer or employee of the department having**
 31 **probable cause to believe the parent, guardian, or custodian**
 32 **was using drugs or alcohol prior to the child's death; and**

33 **(4) the law enforcement officer or employee of the department**
 34 **had probable cause to believe the parent, guardian, or**
 35 **custodian was impaired, intoxicated, or under the influence of**
 36 **drug or alcohol immediately prior to or at the time of the**
 37 **child's death;**

38 **the failure to submit to the drug or alcohol test is prima facie**

1 **evidence that the parent, guardian, or custodian was intoxicated or**
 2 **under the influence of alcohol or drugs at the time of the child's**
 3 **death.**

4 **(c) Evidence from a drug or alcohol screen test administered**
 5 **under this section is not admissible as evidence in a criminal**
 6 **proceeding.**

7 SECTION 52. IC 31-34-15-4, AS AMENDED BY P.L.145-2006,
 8 SECTION 303, IS AMENDED TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2009]: Sec. 4. A child's case plan must be set
 10 out in a form prescribed by the department that meets the specifications
 11 set by 45 CFR 1356.21. The case plan must include a description and
 12 discussion of the following:

13 (1) A permanent plan for the child and an estimated date for
 14 achieving the goal of the plan.

15 (2) The appropriate placement for the child based on the child's
 16 special needs and best interests.

17 (3) The least restrictive family-like setting that is close to the
 18 home of the child's parent, custodian, or guardian if out-of-home
 19 placement is recommended. If an out-of-home placement is
 20 appropriate, the county office or department shall consider
 21 whether a child in need of services should be placed with the
 22 child's suitable and willing blood or adoptive relative caretaker,
 23 including a grandparent, an aunt, an uncle, or an adult sibling,
 24 before considering other out-of-home placements for the child.

25 (4) Family services recommended for the child, parent, guardian,
 26 or custodian.

27 (5) Efforts already made to provide family services to the child,
 28 parent, guardian, or custodian.

29 (6) Efforts that will be made to provide family services that are
 30 ordered by the court.

31 **(7) A plan for ensuring the educational stability of the child**
 32 **while in foster care that includes:**

33 **(A) assurances that the placement in foster care considers**
 34 **the appropriateness of the current educational setting of**
 35 **the child and the proximity to the school where the child is**
 36 **presently enrolled;**

37 **(B) the coordination with local education agencies to**
 38 **ensure the child remains in the school where the child is**

1 **enrolled at the time of removal; and**
 2 **(C) immediate, appropriate enrollment of the child in a**
 3 **different school if remaining in the same school is not in**
 4 **the best interests of the child.**

5 SECTION 53. IC 31-35-2-4, AS AMENDED BY P.L.146-2008,
 6 SECTION 615, IS AMENDED TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A petition to terminate the
 8 parent-child relationship involving a delinquent child or a child in need
 9 of services may be signed and filed with the juvenile or probate court
 10 by any of the following:

- 11 (1) The attorney for the department.
- 12 (2) The child's court appointed special advocate.
- 13 (3) The child's guardian ad litem.

14 (b) The petition must:

- 15 (1) be entitled "In the Matter of the Termination of the
- 16 Parent-Child Relationship of _____, a child, and
- 17 _____, the child's parent (or parents)"; and

18 (2) allege that:

19 (A) one (1) of the following exists:

- 20 (i) the child has been removed from the parent for at least
- 21 six (6) months under a dispositional decree;
- 22 (ii) a court has entered a finding under IC 31-34-21-5.6 that
- 23 reasonable efforts for family preservation or reunification
- 24 are not required, including a description of the court's
- 25 finding, the date of the finding, and the manner in which the
- 26 finding was made; or
- 27 (iii) the child has been removed from the parent and has
- 28 been under the supervision of a ~~county office of family and~~
- 29 ~~children~~ **local office or probation department** for at least
- 30 fifteen (15) months of the most recent twenty-two (22)
- 31 months;

32 (B) there is a reasonable probability that:

- 33 (i) the conditions that resulted in the child's removal or the
- 34 reasons for placement outside the home of the parents will
- 35 not be remedied; or
- 36 (ii) the continuation of the parent-child relationship poses a
- 37 threat to the well-being of the child;

38 (C) termination is in the best interests of the child; and

1 (D) there is a satisfactory plan for the care and treatment of the
2 child.

3 (3) Indicate whether at least one (1) of the factors listed in section
4 4.5(d)(1) through 4.5(d)(3) of this chapter applies and specify
5 each factor that would apply as the basis for filing a motion to
6 dismiss the petition.

7 SECTION 54. IC 31-35-2-4.5, AS AMENDED BY P.L.146-2008,
8 SECTION 616, IS AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2009]: Sec. 4.5. (a) This section applies if:

10 (1) a court has made a finding under IC 31-34-21-5.6 that
11 reasonable efforts for family preservation or reunification with
12 respect to a child in need of services are not required; or

13 (2) a child in need of services:

14 (A) has been placed in:

15 (i) a foster family home, child caring institution, or group
16 home licensed under IC 31-27; or

17 (ii) the home of a person related (as defined in
18 IC 31-9-2-106.5) to the child;

19 as directed by a court in a child in need of services proceeding
20 under IC 31-34; and

21 (B) has been removed from a parent and has been under the
22 supervision of the department **or county probation**
23 **department** for not less than fifteen (15) months of the most
24 recent twenty-two (22) months, excluding any period not
25 exceeding sixty (60) days before the court has entered a
26 finding and judgment under IC 31-34 that the child is a child
27 in need of services.

28 (b) A person described in section 4(a) of this chapter shall:

29 (1) file a petition to terminate the parent-child relationship under
30 section 4 of this chapter; and

31 (2) request that the petition be set for hearing.

32 (c) If a petition under subsection (b) is filed by the child's court
33 appointed special advocate or guardian ad litem, the department shall
34 be joined as a party to the petition.

35 (d) A party shall file a motion to dismiss the petition to terminate
36 the parent-child relationship if any of the following circumstances
37 apply:

38 (1) That the current case plan prepared by or under the

1 supervision of the department under IC 31-34-15 has documented
2 a compelling reason, based on facts and circumstances stated in
3 the petition or motion, for concluding that filing, or proceeding to
4 a final determination of, a petition to terminate the parent-child
5 relationship is not in the best interests of the child. A compelling
6 reason may include the fact that the child is being cared for by a
7 custodian who is a parent, stepparent, grandparent, or responsible
8 adult who is the child's sibling, aunt, or uncle or a person related
9 (as defined in IC 31-9-2-106.5) to the child who is caring for the
10 child as a legal guardian.

11 (2) That:

12 (A) IC 31-34-21-5.6 is not applicable to the child;

13 (B) the department has not provided family services to the
14 child, parent, or family of the child in accordance with a
15 currently effective case plan prepared under IC 31-34-15 or a
16 permanency plan or dispositional decree approved under
17 IC 31-34, for the purpose of permitting and facilitating safe
18 return of the child to the child's home; and

19 (C) the period for completion of the program of family
20 services, as specified in the current case plan, permanency
21 plan, or decree, has not expired.

22 (3) That:

23 (A) IC 31-34-21-5.6 is not applicable to the child;

24 (B) the department has not provided family services to the
25 child, parent, or family of the child, in accordance with
26 applicable provisions of a currently effective case plan
27 prepared under IC 31-34-15, or a permanency plan or
28 dispositional decree approved under IC 31-34; and

29 (C) the services that the department has not provided are
30 substantial and material in relation to implementation of a plan
31 to permit safe return of the child to the child's home.

32 The motion to dismiss shall specify which of the allegations described
33 in subdivisions (1) through (3) apply to the motion. If the court finds
34 that any of the allegations described in subdivisions (1) through (3) are
35 true, as established by a preponderance of the evidence, the court shall
36 dismiss the petition to terminate the parent-child relationship."

37 Page 33, between lines 8 and 9, begin a new paragraph and insert:

38 "SECTION 53. IC 31-37-17-8 IS ADDED TO THE INDIANA

1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2009]: **Sec. 8. Unless prohibited by federal**
 3 **law, a probation department and:**
 4 (1) the local office of family and children;
 5 (2) a local office; and
 6 (3) the department of child services;
 7 may exchange information for use in preparing a report under this
 8 chapter.".

9 Page 34, between lines 2 and 3, begin a new line block indented and
 10 insert:

11 "(7) A plan for ensuring the educational stability of the child
 12 while in foster care that includes:
 13 (1) assurances that the placement in foster care considers the
 14 appropriateness of the current educational setting of the child
 15 and the proximity to the school where the child is presently
 16 enrolled;
 17 (2) the coordination with local education agencies to ensure
 18 the child remains in the school where the child is enrolled at
 19 the time of removal; and
 20 (3) immediate, appropriate enrollment of the child in a
 21 different school if remaining in the same school is not in the
 22 best interests of the child.".

23 Page 39, line 41, delete "IC 31-34-1-6; IC 31-34-1-16;
 24 IC 31-34-10-7." and insert "IC 31-9-2-21; IC 31-9-2-80; IC 31-9-2-103;
 25 IC 31-9-2-113; IC 31-38.".

26 Page 40, after line 21, begin a new paragraph and insert:

27 "SECTION 62. [EFFECTIVE UPON PASSAGE] **IC 31-30-1-2.5,**
 28 **as amended by this act, applies to proceedings pending on or**

- 1 **initiated on or after the effective date of this SECTION.**
- 2 SECTION 63. **An emergency is declared for this act."**
- 3 Renumber all SECTIONS consecutively.
 (Reference is to SB 365 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

Bray

Chairperson